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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,021	09/08/2005	Sieger Dijkstra	2409-0158PUS1	8184
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EXAMINER				
FOX, CHARLES A				
ART UNIT		PAPER NUMBER		
3652				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/542,021

Applicant(s)

DIJKSTRA ET AL.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date 20050711
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: Page 1 line 28 where structure of the device is presented by referencing a claim. The structure from the relevant claim should be written into the specification to meet current United States practice. This is just one example the specification is replete with this type of wording. Correction is required in response to this action.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The current title alludes to active collection of waste, this is not the case. The following title is suggested: Hidden receptacle for waste with a cover.

Information Disclosure Statement

The information disclosure statement filed July 11, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the

application file, but the information referred to therein has not been considered. Applicant is required to furnish a copy of each reference on a new information disclosure statement in response to this action. Any reference that may be cited by the examiner need not be sent, as it will be of record.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ratchet mechanism must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next

Office action. The objection to the drawings will not be held in abeyance. The specification should also be amended to incorporate the elements that make up the ratchet mechanism along with all relevant reference numerals. Each and every limitation claimed must be shown in the drawings.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,9,15 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the word 'preferably' is not clear. It is not definite if this is a limitation or not. In any rejections of claims 1 and 12 preferable embodiments are not treated as being encompassed by the claim language. Claim 15 also has "preferably" within a range, it is indefinite as to which range is being claimed.

Regarding claim 17 it is not clear what constitutes a standard household trash receptacle. Clarification is required.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim does not set forth any explicit steps to be performed. The claim should be written such that a clear progression of steps is presented that identify what is being performed and in what order. For example:

providing a device as in claim 12;

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fitting a drilling bit to a first end of said first tube. And so on. Correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 7, 11, 12, 15-17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver. Regarding claim 1 Weaver US 3,800,973 discloses a trash collection device comprising:

a refuse bin (25) with an inlet and an outlet;

an underground housing (33);

a reservoir (30) which in a first position is within said housing and in open communication with said bin;

a lifting means which are within the housing and arranged for moving the reservoir such that it can be emptied or replaced with an empty reservoir.

Regarding claims 4 and 5 Weaver further discloses that the lifting means are manually drivable and a displacement means is provided for compensating for the weight of the refuse.

Regarding claim 7 Weaver also discloses that the lifting means as comprising a spring strong enough to move a full reservoir to the second position, And a locking

means for keeping the spring means in a biased position, wherein the locking means can be released by a person.

Regarding claim 11 Weaver also teaches moving the bin and the reservoir separately such that the bin is moved to make way for the reservoir.

Regarding claim 12 Weaver further discloses that the housing is a tube and the receptacle is a smaller tube which fits within the housing such that a lifting device can raise the receptacle from the housing.

Regarding claim 15 Weaver further discloses that a centerline of the housing is approximately perpendicular with the ground surface.

Regarding claim 16 Weaver also discloses that the reservoir outlet is between 1 and 2 meters off the ground when the device is in its second position.

Regarding claim 17 Weaver also discloses that the housing is sized to receive a household trash receptacle on a movable platform.

Regarding claim 21 Weaver also discloses that the inlet and outlet openings are the same.

Claims 1,9 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Galeazzi et al. Regarding claim 1 Galeazzi et al. US 5,140,786 discloses an apparatus for storing refuse comprising:

- a refuse bin (15) with an inlet and an outlet end;
- a housing situated largely underground;
- a reservoir in open communication with the outlet opening of said bin;

lifting means (5-8) which are received at least partially within said housing and arranged for moving the reservoir between a first position largely within the housing to a second position where the reservoir is situated above the ground and can be emptied.

Regarding claim 9 the lifting means are at least partially mechanically drivable and are adapted to be driven by an external unit.

Regarding claim 10 Galeazzi et al. also disclose the bin moves along with the reservoir when it is raised and lowered.

Claims 1, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Galeazzi et al. Regarding claim 1 Galeazzi et al. US 6,338,596 discloses an apparatus for storing refuse comprising:

- a refuse bin (11a,11b) with an inlet and an outlet end;

- a housing situated largely underground;

- a reservoir in open communication with the outlet opening of said bin;

lifting means (16) which are received at least partially within said housing and arranged for moving the reservoir between a first position largely within the housing to a second position where the reservoir is situated above the ground and can be emptied.

Regarding claim 19 Galeazzi et al. also disclose sensors (3a,4a) which record the weight of the device and associated refuse and communicate with a data acquisition system (D) .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 1 above, and further in view of Haven et al. Regarding claims 2 and 3 Weaver teaches the limitations of claim 1 as above, he does not teach how the receptacle is emptied. Haven et al. US 4,408,946 teaches a device for storing and emptying refuse comprising:

- a receptacle (100) for holding refuse;

- a lift device (80) for raising the receptacle from the ground;

- said lift device having lifting forks to which the receptacle is pivotally attached;

wherein the receptacle will pivot under the influence of gravity when lifted. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with a receptacle as taught by Haven et al. in order to make it easier for an operator to empty the receptacle without exerting physical force, thereby decreasing the chance of injury.

Regarding claim 18 Haven et al. also teach an embodiment where a flap is provided on the bottom of the receptacle for removing the material from the device via its bottom. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with a bottom opening reservoir in order to allow the device to empty directly into a secondary device without needing to use any physical labor.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 1 above, and further in view of Borst. Weaver teaches the limitations of claim 1 as above, he also teaches using a spring to counterbalance the weight of the platform and reservoir. He does not teach using counterweights to assist in raising the platform. Borst US 300,685 teaches a buried trash receptacle where a reservoir is placed on a lifting platform, said platform is assisted in raising with counterweights (F). It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with counter weights as taught by Borst as springs and counterweights are well know equivalent structures used for similar tasks. In this case the two structures are used for the exact same reason on very similar devices.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 12 above, and further in view of Dykstra et al. Weaver teaches the limitations of claim 12 as above, he does not teach a rack and pinion lifting device. Dykstra et al. teaches a lift device comprising:

- a lift device comprising a rack (98) and a pinion (38) for raising and lower in load holding device (68);

- a housing for enclosing said lift device when retracted;
 - said pinion mounted at a top of said housing;

- wherein said load holding device is connected to said rack about a generally horizontal pivot axis. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with a drive system as taught

by Dykstra et al. in order to make it easier to lift and lower the device without requiring any strenuous physical exertion.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 1 above, and further in view of George. Weaver teaches the limitations of claim 1 as above, he does not teach providing a segregated reservoir. George US 2002/0027140 teaches a trash reservoir (14) that has a central partition such that separate types of refuse may be stored within in a segregated fashion. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with a segregated reservoir as taught by George in order to allow the device to hold different types of refuse in separate compartments as needed.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 12 above, and further in view of McBride. Weaver teaches the device of claim 12, he does not teach a method of installing the device. McBride US 4,254,994 teaches a method of placing a cylinder in the ground comprising the steps:

providing a first cylinder(24) with a drilling bit (23) at a first end;

drilling the cylinder into the ground using a drill device (22) coupled to a second end of said cylinder;

providing a second cylinder (36) within the first cylinder such that the second cylinder may be raised and lowered within the first cylinder. It would have been obvious to one of ordinary skill in the art, at the time of invention to install the device taught by

Weaver by using drilling methods as taught by McBride in order to simplify the installation by doing away with digging a pit.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weaver as applied to claim 7 above, and further in view of Blaha. Weaver teaches the limitations of claim 7 as above, he also teaches using a balancing spring for assisting in lifting the reservoir. Weaver does not teach using a gas spring with a ratchet. Blaha US 5,946,973 teaches a device with a lifting mechanism comprising:

a ratchet mechanism for interacting with a rack to lock it in a desired position;

a gas spring for biasing the object being lifted. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Weaver with a gas spring as taught by Blaha as gas springs are well known equivalents to the springs used by Weaver, and further to use a ratchet to positively place the reservoir in any chosen position relative to the ground without having to worry about the device moving while an operator is working on the device.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Henry 1950, Van Dyk 1963, Shell 1967, Whren 1991, Curtis 1984, Theis 1991, Galeazzi et al. 1996, Palmer 2000, Vulcano 2001 and Galeazzi et al. 2002.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/
Primary Examiner, Art Unit 3652

